



(c) amendments to annual permit .....\$300 600

(2) ~~For "Contract volume" means, for purposes of~~ calculating the asbestos project permit fee, ~~the contract volume cost is based upon~~ the itemized contract charges directly associated with conducting the asbestos project. If there is no itemization of charges, the total of all charges associated with the contract is the contract volume ~~cost for the asbestos project permit fee~~. The cost of the asbestos project permit fee is not included in the determination of the contract volume ~~cost~~ if the fee is separately itemized in the contract.

~~(a)~~ (3) The asbestos project permit applicant shall submit a copy of the contract to the department to verify the contract volume ~~amount~~ specified in the permit application.

~~(b) If the final contract volume of an asbestos project is more than two tiers greater than the volume specified in the permit application, the applicant shall apply to the department for an amended asbestos project permit and shall pay the difference between the original permit fee and the permit fee based on the new contract volume.~~

(3) remains the same, but is renumbered (4).

AUTH: 75-2-503, MCA

IMP: 75-2-503, 75-2-504, MCA

#### 17.74.402 ACCREDITATION AND ACCREDITATION RENEWAL FEES

(1) A person seeking accreditation or renewal of accreditation in an asbestos-related occupation shall pay a fee to the department. The fees for accreditation or renewal of accreditation are:

(a) asbestos project worker.....\$ 40 45

(b) asbestos project contractor/supervisor .....\$165 170

(c) asbestos inspector.....\$165 170

(d) asbestos management planner .....\$165 170

(e) asbestos project designer.....\$165 170

(2) remains the same.

(3) For simultaneous, i.e., on the same application with the same date, accreditation or accreditation renewal in more than one asbestos-related occupation, the fee is \$325 plus any applicable surcharges, or the total of the two highest fees plus any applicable surcharges for those two occupations, whichever is less.

AUTH: 75-2-503, MCA

IMP: 75-2-503, MCA

17.74.403 COURSE APPROVAL FEES (1) A person seeking approval of a training course for accreditation in an asbestos-related occupation shall pay to the department a fee of ~~\$975~~ 1,100 per course.

AUTH: 75-2-503, MCA

IMP: 75-2-503, MCA

17.74.404 COURSE AUDIT FEES (1) A person offering a training course or refresher course for accreditation in an asbestos-related occupation that is audited by the department, as required under subchapter 3, shall pay the following fees, as applicable, within 60 days after receiving a bill from the department:

(a) asbestos project worker course .....	\$ 780 480
(b) asbestos project contractor/supervisor course .....	\$1,300 800
(c) asbestos inspector course .....	\$1,300 800
(d) asbestos management planner course.....	\$ 780 480
(e) asbestos project designer course .....	\$ 780 480
(f) asbestos inspector course and asbestos management planner course presented in conjunction.....	\$1,560 960
(g) refresher course .....	\$ 325 200
(h) two or more refresher courses presented consecutively .....	\$ 520 320
(2) remains the same.	

AUTH: 75-2-503, MCA

IMP: 75-2-503, MCA

REASON: Pursuant to 75-2-503(1)(k), MCA, the Department of Environmental Quality (department) shall assess fees for asbestos project permits, annual permits, amendments to annual permits, accreditation, and accreditation renewal. These fees must be commensurate with the department's costs for issuance and administration of the permits and accreditations.

In ARM 17.74.401(1), the department is proposing to revert back to the original permit fee rule assessment format (used from 1989 through 2002) that was based on a flat percentage of the asbestos project contract volume. The proposed format is simpler to administer than the current tiered percentage format. The new format for determining the asbestos project permit fee would be based on 10.0% of the contract volume. Contract volume is defined as the itemized or total contract charges directly associated with conducting the asbestos project.

The department last revised the fees in November 2003. Since FY 2004, the asbestos program costs have increased by approximately 13%. The increase in program costs is primarily due to an approximate 11% increase in salaries of asbestos program staff, and a 16% increase in operating expenses. Since FY 2004, the Performance Partnership Grant from the U.S. Environmental Protection Agency for funding of the asbestos program has decreased \$19,264 or 27%. With current fees the budget projections indicate a \$35,302 deficit at the end of FY 2008, and a \$346,270 deficit in FY 2011.

In ARM 17.74.401(1)(a) and 17.74.402(1), the department is proposing to increase the asbestos project permit fee and accreditation fees commensurate with the 13% increase in program costs since FY 2004. In FY 2006, the program staff issued 215 project permits. The cumulative amount of the project permit fee increase for the 215 project permit holders in FY 2007 is projected to be \$66,838. In FY 2006, the program staff issued 440 accreditations. The cumulative amount of the accreditation fee increase for 440 persons in FY 2007 is projected to be \$2,200.

In ARM 17.74.401(1)(b), the department is proposing to increase the asbestos project annual permit fee to an amount commensurate with current

program costs. The annual permit fee was adopted in 1989, and was initially set at \$1,000. In 2002, the annual permit fee was reduced to \$850. This reduction was necessary to meet the requirements of 75-2-504(2), MCA (2001). Pursuant to 75-2-504(2), MCA, the annual permit fee was required to reflect the actual cost of the department's annual permit application review, permit issuance, and facility inspections. Section 75-2-504(2), MCA, was repealed in 2003. Therefore, the department is proposing to increase the annual permit fee to \$2,000, which is commensurate with current program costs as required pursuant to 75-2-503(1)(k), MCA. In FY 2006, the program staff issued ten annual permits. The cumulative amount of the annual permit fee increase for the ten annual permit holders in FY 2007 is projected to be \$15,500.

In ARM 17.74.401(2), the department is proposing to revise the definition of "contract volume." The proposed amendments would not change the meaning of the definition.

ARM 17.74.401(2)(b) is proposed to be deleted because the proposed revisions to (1)(a) would remove the fee assessment tiers. The section would be superfluous.

In ARM 17.74.402(3), the department is proposing the addition of language to clarify the meaning of "simultaneous." The proposed language would not change the meaning of the section.

In ARM 17.74.403, the department is proposing to increase the course approval fee from \$975 to \$1,100, which is an amount commensurate with the 13% increase in program costs since FY 2004. The department approved one course in FY 2005 and none in FY 2006. Based on an assumption of one course being approved in FY 2007, the cumulative amount of the course approval fee increase for one training provider in FY 2007 is projected to be \$125.

In ARM 17.74.404(1), the department is proposing to reduce the course audit fees by approximately 40%. The audit fees currently are so high that many training course providers can't afford the fee. The department believes it may conduct as many as ten audits a year with the proposed lower fees. The cumulative amount of the course audit fee decrease for ten training providers in FY 2007 is projected to be \$5,600.

The title of ARM Title 17, chapter 74, subchapter 4, would be revised from "Fees" to "Asbestos Control Fees." This and other proposed editorial amendments are not intended to change the meaning of the rules.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Robert A. Martin, Waste and Underground Tank Management Bureau, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-4194; fax (406) 444-1374; or e-mail to [rmartin@mt.gov](mailto:rmartin@mt.gov), no later than September 19, 2007. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. Jane Amdahl, attorney, has been designated to preside over and conduct the hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list must make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Such written request may be mailed or delivered to Elois Johnson, Paralegal, Legal Unit, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to [ejohnson@mt.gov](mailto:ejohnson@mt.gov), or may be made by completing a request form at any rules hearing held by the department.

7. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

Reviewed by:

DEPARTMENT OF ENVIRONMENTAL  
QUALITY

/s/ David Rusoff

DAVID RUSOFF

Rule Reviewer

/s/ Richard H. Oppen

RICHARD H. OPPEN, Director

Certified to the Secretary of State, June 25, 2007.